

BEN LO
ANYWHERECOMMERCE vs INGENICO, INC.

December 08, 2021

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| <p style="text-align: right;">Page 9</p> <p>1 understand that today is a question and answer 2 format, yes? 3 A. Yes. 4 Q. And so I'm going to be asking a series of 5 questions today, and your obligation is to 6 provide answers to those questions consistent 7 with the oath that you just took to tell the 8 truth. You understand that, right? 9 A. I understand that. 10 Q. You understand that the oath that you've taken 11 requires you to tell the truth just as though you 12 were in a courtroom with a judge, even though we 13 don't have a judge here today, yes? 14 A. Yes. 15 Q. And you're doing a very good job of this so far, 16 but because we are being recorded by a court 17 reporter, who's taking down what's being said, in 18 order for it to be clear, it's important that we 19 not talk at the same time. Do you understand 20 that? 21 A. Yes. 22 Q. And so I will do my best to wait until your done 23 answering a question before I answer -- before I 24 ask my next one. And if you could do the same, 25 wait until my question is done before giving an</p> | <p style="text-align: right;">Page 11</p> <p>1 Q. Excellent. Okay. So one last question about 2 that deposition that you gave in the Samsung Pay 3 case, did that have anything to do with the facts 4 that are at issue in the case that you're here 5 for today? 6 A. No. 7 Q. No? Okay. 8 A. No. 9 Q. The -- was BBPOS the plaintiff in that case? 10 A. Yes. 11 Q. Was there any allegation of trade secret theft? 12 A. No. 13 Q. Mr. Lo, can you tell us what where you are 14 current job is? 15 A. I am the CEO of BBPOS. 16 Q. Do you have any other role at BBPOS? 17 A. I'm also a director of BBPOS. 18 Q. How many directors are there? 19 A. There are five directors. 20 Q. How long have you been one of them? 21 A. I've been a director since the company was 22 founded in 2008. 23 Q. What about as CEO? How long have you had that 24 role? 25 A. It's on and off. In 2008, I was the founder</p> |
| <p style="text-align: right;">Page 10</p> <p>1 answer, that will make things go more smoothly. 2 Do you understand that? 3 A. Yes. 4 Q. If at my point today you don't understand my 5 question, can you please tell me that? 6 A. I will. 7 Q. Because if I ask a question and you answer it, 8 I'm going to understand that you're giving an 9 answer to the question that was given. You 10 understand that? 11 A. Yes. 12 Q. Is there any reason why you are not capable of 13 providing truthful and full answers today? 14 A. Can you repeat the question? 15 Q. Sure. Is there any reason that you are not 16 capable of providing answers to questions today? 17 A. No. 18 Q. We're probably going to go for a while today, 19 and, so, if for any reason you need to take a 20 break or want to take a break, please just say 21 so, and we'll take a break as soon as we can. 22 You can do it periodically. You don't have to 23 tell me why. Just, if you want to take a break, 24 we can take a break. Do you understand that? 25 A. I understand.</p> | <p style="text-align: right;">Page 12</p> <p>1 of the company, and I'm also the CEO. And then I 2 think in 2016, I recruited a CEO, and then I 3 stepped down as the CEO of the company. And then 4 in 2019, my CEO decide, and I'm back to the CEO 5 of the company again (inaudible) 6 Q. Who was CEO from 2016 to '19? 7 A. Alex Choi. 8 (INTERRUPTION BY THE COURT REPORTER TO ADDRESS 9 DIFFICULTY IN UNDERSTANDING THE DEPONENT) 10 Q. Could you spell Alex's last name, please? 11 A. C-H-O-I. 12 Q. What did you do before you became involved with 13 BBPOS? 14 A. I was a CEO and director. So before I 15 founded BBPOS, I was the CEO of another company, 16 also founded by me, called Systems Art Limited. 17 Q. Did you found that with Jimmy Tang? 18 A. Yeah. I found it with Jimmy Tang and Daniel 19 Tsiaia. 20 Q. And what kind of business was Systems Art 21 Limited? 22 A. Systems Art Limited is a design company to 23 design electronic products for other companies. 24 Q. How long were you affiliated with Systems Art 25 Limited?</p> |

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| 1 Limited. | 1 A. Yes. |
| 2 Q. Was there a CEO? | 2 Q. And the mPOS dongle is configured to allow for |
| 3 A. O-O. Chief operating officer. | 3 reading a credit card; is that right? |
| 4 Q. Was there a CEO? | 4 A. That's correct. |
| 5 A. Yes, there was a CEO. | 5 Q. And the functionality of the dongle plus the |
| 6 Q. Who? | 6 smartphone with the app is to facilitate a credit |
| 7 A. Jack Lau. | 7 card transaction, correct? |
| 8 Q. L-A-U? | 8 A. Correct. |
| 9 A. Yes. | 9 Q. Does BBPOS manufacture mPOS dongles? |
| 10 Q. Thank you. What did you do before you were | 10 A. Yes. |
| 11 associated with Infinite Dream Machine Limited? | 11 Q. Does it also contract for the manufacture of mPOS |
| 12 A. I was still in the university. I was a | 12 dongles? |
| 13 student. | 13 A. Yes. We're contract manufacturer. |
| 14 Q. So that was your first business role after | 14 Q. Does BBPOS sell mPOS dongles to customers? |
| 15 school? | 15 A. Yes. |
| 16 A. Yes. | 16 Q. Does BBPOS sell any hardware other than mPOS |
| 17 Q. And where did you go to university? | 17 dongles? |
| 18 A. Hong Kong University of Science and | 18 A. Yes. |
| 19 Technology in Hong Kong. | 19 Q. What other hardware does BBPOS sell? |
| 20 (INTERRUPTION BY THE COURT REPORTER) | 20 A. BBPOS also sells a smart POS terminal, and |
| 21 A. Hong Kong University of Science and | 21 also some accessories, like pos recognize, |
| 22 Technology in Hong Kong. | 22 printer. It's all the peripheral, related to -- |
| 23 Q. Did you have a focus to your studies at the Hong | 23 for emergence to (inaudible). |
| 24 Kong University of Science and Technology? | 24 Q. All right. And I'm sorry. I think you said that |
| 25 A. Yes. I focused in electronic engineering. | 25 you also -- BBPOS also sells, did you call it a |
| Page 18 | Page 20 |
| 1 Q. Anything else? | 1 smart POS terminal? |
| 2 A. That's it. | 2 A. Yes. Smart POS or end-to-end based POS |
| 3 Q. Can you tell me, what is the business of BBPOS? | 3 terminal. |
| 4 A. BBPOS is a -- is design and manufacturer of a | 4 Q. Is that a standalone unit that does not require |
| 5 mPOS mobile point of sales. It's a dongle. | 5 connection to a smartphone? |
| 6 (Inaudible) smart phone. It can turn a | 6 A. That's correct. |
| 7 smartphone into a point of sales service terminal | 7 Q. And then you mentioned some other products that |
| 8 to take payment. | 8 you sell, and I caught that you said you sell |
| 9 Q. So BBPOS makes, you called it, an mPOS; is that | 9 printers and other peripherals for merchants. |
| 10 right? | 10 But was there something else that you mentioned? |
| 11 A. That's correct. | 11 A. Yeah. Printer and also some Android tablet |
| 12 Q. And that stands for mobile point sale, yes? | 12 and a bar code scanner. |
| 13 A. Yes. | 13 Q. A bar code scanner. And you said Android |
| 14 Q. And I think you said that mPOS devise is a | 14 something. I'm sorry. I didn't catch the word? |
| 15 dongle, yes? | 15 A. Tablet. |
| 16 A. Yes. It's a dongle. It's a dongle. It's a | 16 Q. Can you spell that? I'm just not understanding |
| 17 peripheral plug in and mobile phone. And then | 17 it. |
| 18 there's an F1A in the mobile phone to communicate | 18 A. Table with T. T-A-B-L-E-T. |
| 19 with the dongle, to take that data and | 19 Q. Oh, tablet. |
| 20 (inaudible) payment processor. | 20 A. Tablet. |
| 21 Q. So the mobile point sale dongle connects to a | 21 Q. Okay. So BBPOS sells Android tablets? |
| 22 smartphone, yes? | 22 A. Yes. |
| 23 A. Correct. | 23 Q. What do those do? |
| 24 Q. And there's an app on the smartphone that | 24 A. Can you repeat your question? |
| 25 interacts with this peripheral device, yes? | 25 Q. Sure. Are these tablets specifically for |

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| 1 Q. Printers and other peripherals for the mPOS and 2 POS terminal, yes? 3 A. Yes. 4 Q. It sells tablets, and it's done so for the last 5 few years, yes? 6 A. Yes. 7 Q. And then it provides, as a service for a fee, the 8 Wise manager, which is a mobile device management 9 service, yes? 10 A. Yes. 11 Q. And it provides, for a fee, repair services for 12 the physical hardware, yes? 13 A. Yes. 14 Q. Provides support, but that's free of charge, 15 correct? The software support. 16 A. Correct. 17 Q. And then it does offer design services for 18 customization of its products, and I assume 19 that's done on a -- that's charged as to the 20 particular job, correct? 21 A. Correct. 22 Q. There's no standard fee for those design 23 services, right? 24 A. Correct. 25 Q. Other than those items, which we've just gone | 1 correct? 2 A. Correct. 3 Q. And it was not -- was the Circle Swipe capable of 4 any other form of credit card transaction? 5 A. No. Just Mastercard. 6 Q. And when you say that it was an audio jack 7 device, you mean that it connected to the 8 smartphone through the smartphone's audio jack 9 port, correct? 10 A. Correct. 11 Q. When did BBPOS first sell Circle Swipe? 12 A. 2000 -- (inaudible) 2010. 13 Q. Soon after it was released? 14 A. Yes. 15 Q. Back in 2010 when the Circle Swipe first came 16 out, did BBPOS sell directly to customers? 17 A. No. We just -- we sell to ROAM Data only. 18 Q. Only to roam Gator? 19 A. Yes. 20 Q. And ROAM Data, for the benefit of the court 21 reporter, that's R-O-A-M D-A-T-A, yes? 22 A. Yes. 23 Q. And how was it that you came to be selling the 24 Circle Swipe to ROAM Data? 25 A. Will Graylin, who was the CEO of ROAM Data, |
| Page 26 | Page 28 |
| 1 through, does BBPOS do anything else for its 2 business? 3 A. No. That's it. 4 Q. And when did BBPOS first come out with an mPOS 5 device? 6 A. 2009. 7 Q. 2009? 8 A. Yes. 9 Q. And what device was that? 10 A. It was an audio jack card reader. It only 11 accept Mastercard, and we call it Circle Swipe. (INTERRUPTION BY THE COURT REPORTER) 13 A. It was an audio jack card reader, which only 14 accepts Mastercard. We call the device Circle 15 Swipe. 16 Q. Okay. Let me break that down a little bit. So 17 the first device was called Circle Swipe, yes? 18 A. Yes. 19 Q. And why was it called Circle Swipe? 20 A. Because it's a circle in form factor. 21 Q. Form factor, that's the physical shape of the 22 device, yes? 23 A. Yes. 24 Q. And the Circle Swipe reader that came out in 2009 25 could read a magnetic stripe on a credit card, | 1 he was introduced to me by one of my friends. 2 And then he come to -- he fly to Hong Kong, and 3 we sign agreement for distribute of my product in 4 U.S. 5 Q. All right. So, Will Graylin, was he affiliated 6 with ROAM Data? 7 A. Yes. 8 Q. He was the CEO? 9 A. He was the CEO of ROAM Data in 2010, 2010. 10 Q. And who was the friend that introduced you to 11 Will Graylin? 12 A. Ken Mages, who was the CEO of Home ATM. 13 Q. How did you know Ken Mages? 14 A. I'm working on a project. When I found 15 Systems Art, I'm working on a project for Ken 16 Mages. 17 Q. What project were you working on for Ken Mages? 18 A. It's a PIN pad. It's a PIN pad. 19 Q. A PIN pad? 20 A. Yeah. PIN pad. Plug it into a PC. 21 Q. And do you know what Mr. Mages wanted a PIN pad 22 that plugged into a PC for? 23 A. Well, his company (inaudible) Home ATM. So 24 he would like to convert a PC into ATM machines. 25 And ATM machines, you have to enter PIN on the |

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| <p style="text-align: right;">Page 29</p> <p>1 ATM machines. So that PIN pad function, as the 2 key (inaudible) for the users to enter the PIN. 3 Q. Did you, in fact, produce a PIN pad for Ken 4 Mages? 5 A. Yes. 6 Q. Did you know anyone else at Home ATM when you 7 were doing this work on the PIN pad? 8 A. Just Ken Mages. 9 Q. Do you know how Ken Mages knew Will Graylin? 10 A. I don't know. 11 Q. So explain to me what happened that Ken Mages 12 introduced you to Will Graylin? 13 A. Can you repeat your question? 14 Q. Sure. I'll try to say it again. Describe for me 15 what happened when Ken introduced you to Will. 16 A. Well, Ken just call me and said that there's 17 gentleman called Will Graylin who would like 18 to -- who would like to buy some product. And 19 then he introduce Will Graylin to me and said 20 that we may be able to have him. 21 So Will call me, and then he ask me, what do 22 I have. And then I told him that I have this 23 Circle Swipe. And then Will fly to Hong Kong. 24 And then I do a demo to Will Graylin. 25 After the demonstration, Will Graylin told</p> | <p style="text-align: right;">Page 31</p> <p>1 Q. I'm not sure -- let me just back up, because I'm 2 not sure I understood. I asked you how Ken Mages 3 knew that you had this Circle Swipe, and I 4 thought you said that you had sold some of the 5 product to him. Did I misunderstand -- 6 A. I show, not -- 7 MR. GRIFFIN: You have to wait for him 8 to finish. You can answer. 9 A. I mean I show. S-H-O-W. I demonstrate. 10 Q. Oh. You showed it to him? 11 A. Yeah. 12 Q. So you hadn't made any sales of the Circle Swipe 13 to either Ken Mages or Home ATM, yes? 14 A. Yes. I didn't make any sales yet. Just show 15 the product to Ken Mages and ask him whether this 16 product is good or not. 17 Q. And what did he say? 18 A. He has no comment. 19 Q. And then you spoke with Will Graylin; he comes 20 out to Hong Kong; you demo the product for him; 21 and then I think you said that Mr. Graylin wanted 22 another product? 23 A. Yes. 24 Q. What was -- what do you mean -- what was this 25 other product?</p> |
| <p style="text-align: right;">Page 30</p> <p>1 me that he would like to have another product. 2 So this is how I started relationship with Will 3 Graylin. 4 Q. Did you have any understanding of what ROAM Data 5 did as a business when you first talked to Will 6 Graylin? 7 A. Yes. Will Graylin told me that ROAM Data is 8 a software company. They provide a software 9 called, if I remember correct, it's called ROAM 10 reader. It's a ROAM reader that is a mobile -- a 11 mobile market price to have a merchant to place 12 the order over his application. 13 Q. How did Ken Mages know that you had the Circle 14 Swipe available? 15 A. Because I also -- I sold a card reader to Ken 16 Mages. So this is how he know I have the 17 product. 18 Q. You sold the Circle Swipe to him? 19 A. Yes. Because I also ask him, you know, 20 (inaudible) they stood or not. So this is how 21 they know we have the product. 22 Q. Did you sell it to Home ATM? 23 A. No, we don't. 24 Q. You sold it to Ken Mages? 25 A. No, we don't.</p> | <p style="text-align: right;">Page 32</p> <p>1 A. Well, he said that he would like to have a 2 product, (inaudible) reader. (Inaudible) came 3 with the mobile phone wire audio check. He 4 doesn't like the idea. He said he would like 5 (inaudible) to communicate with mobile phone, 6 microphone and speaker of the phone. So this is 7 the product that he want. 8 Q. Did you ever develop an mPOS device that 9 communicated with the mobile phone through the 10 microphone and speaker? 11 A. I think finish -- I believe I did finish a 12 prototype, and then I give the prototype to Will 13 Graylin. 14 Q. Was that ever commercialized? 15 A. I don't know. But I never put order for this 16 product. 17 Q. How long after you met with Will in Hong Kong did 18 ROAM Data begin buying the Circle Swipe? 19 A. I forget. I think a few months later. 20 Q. Did BBPOS manufacture the Circle Swipe? 21 A. Yes. 22 Q. Where is its factory? 23 A. Where is the factory? 24 Q. Yes. 25 A. The factory is in southern China in Dongguan.</p> |

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| 1 distinguish it from the one connective wire or 2 the jack. 3 Q. So in the later versions of Chipper, how did the 4 dongle communicate with the smartphone? 5 A. Wire Bluetooth technology. 6 Q. Only Bluetooth. 7 A. We can also communicate with the process wire 8 USB. 9 Q. Did BBPOS sell Chipper to anyone other than 10 AnywhereCommerce? 11 A. Yes. 12 Q. Who else? 13 A. Some company in China. 14 Q. Anyone outside of China? 15 A. I don't remember. I don't remember. I don't 16 remember much. I don't remember that. 17 Q. Are you familiar with an abbreviations of PCI 18 PTS? 19 A. Yes. 20 Q. Do you know what that stands for? 21 A. It's a payment card industry standard to 22 protect the PINs -- the PIN and card data of 23 (inaudible) Wise. 24 Q. PCI stands for payment card industry; is that 25 right? | 1 A. Yes. 2 Q. What's Visa Ready? 3 A. Well, it is another guideline (inaudible) for 4 Visa card for mPOS device. 5 Q. That was another security specification? 6 A. Yes. 7 Q. And let's just get some vocabulary down here. 8 Are you familiar with the G4X? 9 A. Yes. 10 Q. What's the G4X? 11 A. It's another version of Circle Swipe but with 12 different form factor. 13 Q. G4X is a ROAM Data product, correct? 14 A. It's our product sold to ROAM Data. 15 Q. So it's a BBPOS product that you sold to ROAM 16 Data and that ROAM Data then resold, correct? 17 A. Correct. 18 Q. And when it was sold, it had ROAM data's logo on 19 it, correct? 20 A. Correct. 21 Q. Did -- you say that it's a different version of 22 Circle Swipe. How many versions of Circle Swipe 23 were there? 24 A. I forget. There's many. 25 Q. Were they all sold exclusively to ROAM Data? |
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| 1 A. Yes. 2 Q. And PTS stands for PIN transaction security; is 3 that right? 4 A. Yes. 5 Q. And PCI PTS was mandated for terminals that 6 utilized PIN entry back in 2011, right? 7 A. I'm not sure whether this is mandate. It is 8 just a standard. It is just a guide -- it's more 9 like guideline. 10 Q. You don't know whether the credit cards, such as 11 Visa, Mastercard and American Express, mandated 12 PCI PTS? 13 A. I don't think it's mandate. It's like if 14 it -- you can still use (inaudible) Wise without 15 PCI. But if there's any fault, then I think the 16 (inaudible) has to bear all the fraud. 17 Q. All the fraud? 18 A. Yes. 19 Q. So would you agree with me that having a PCI PTS 20 certified terminal is a benefit to the customer? 21 A. Yes. 22 Q. It's a valuable feature for you to offer your 23 customers, right? 24 A. Yes. 25 Q. Are you familiar with the Visa Ready program? | 1 A. For customer outside China, yes. But we also 2 customize the form factor for some customer in 3 China. 4 Q. Is the G5X another version of the Circle Swipe? 5 A. Yes. 6 Q. How are the G4X and G5X different from the Circle 7 Swipe that came out in 2009? 8 A. I don't remember that. Maybe if you showed 9 me some photo, I tell you. I just know they 10 different form factor. 11 Q. Were the G4X and G5X Visa ready? 12 A. I'm not sure. 13 Q. Do you know the difference between EBC and CBC? 14 A. I'm sorry. 15 Q. Do you know the difference between EBC and CBC? 16 A. I don't know. 17 Q. Are you familiar with CVC encryption? 18 A. I'm not. 19 Q. Are you familiar with the fact that the PCI PTS 20 standard can be applied to non-PIN mPOS devices? 21 A. Yes. 22 Q. And that came out with Version 3 of that PCI PTS 23 standard, right? 24 A. I don't know whether it was from 3 or from 4. 25 I don't remember that. |

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| 1 utilize BBPOS trade secrets? | 1 Q. So did you ever see a product -- strike that. |
| 2 A. Well, when I see the product, it just make me | 2 Was that prototype that you saw at the CARTES |
| 3 recall what Will Graylin said. | 3 trade show in 2014 released as a product? |
| 4 Q. Was there anything about the product in | 4 A. Can you repeat your question? |
| 5 particular that made you think that it might be | 5 Q. The device you saw at the trade show was a |
| 6 built using BBPOS IT? | 6 prototype, correct? |
| 7 A. Yes. Because Ingenico is not the type of | 7 A. I think so. |
| 8 company who deals mobile POS sales. Ingenico is | 8 Q. Was that ever turned into a commercial product? |
| 9 the biggest transitional POS terminal | 9 A. I think so. I think so. |
| 10 manufacturer in the world. So they're using | 10 Q. Why do you say "I think so"? |
| 11 transitional POS. And all of a sudden, they have | 11 A. Because in 2014 -- originally, I try to sell |
| 12 this Chipper like product. So I start to worry, | 12 my Chipper to ROAM Data, and, also, we are trying |
| 13 worry. How come Ingenico come up with this type | 13 to work together to sell the product to pay |
| 14 of product? This is not their main business? | 14 (inaudible). And, eventually, PayPal use |
| 15 Q. You say "all of a sudden." Did you have some | 15 Ingenico devices, not us. So I believe that |
| 16 idea as to how long it took Ingenico to develop | 16 their product has been commercialized and already |
| 17 that product? | 17 sold -- already sold in the market. |
| 18 A. I have no idea. | 18 Q. If you knew -- you're familiar with your Swiper |
| 19 Q. So why did you say all of a sudden, they have the | 19 SDK, yes? |
| 20 product? | 20 A. Yes. |
| 21 A. Well, because ROAM Data kept buying the | 21 Q. Does that Swiper SDK allow for the -- allow for |
| 22 product from us. Since Will Graylin told me he | 22 the processing of an EMV transaction? |
| 23 was no longer with ROAM Data, he was fired by | 23 A. No. |
| 24 ROAM Data, and then -- you know, he was fired by | 24 Q. You can't -- if you're running the Swiper SDK on |
| 25 ROAM Data. I'm still selling product to ROAM | 25 an mPOS device, you can't actually perform an EMV |
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| 1 Data in 2012, 2013, even 2014. So ROAM Data just | 1 transaction, correct? |
| 2 keep buying product from us. | 2 A. Correct. |
| 3 So when I saw the product in Ingenico booth, | 3 Q. Do you have any basis to think that Ingenico or |
| 4 that's why I feel that it's weird. That's why I | 4 any of the defendants have ever misused any BBPOS |
| 5 said all of a sudden, Ingenico has an impulse to | 5 SDK? |
| 6 compete with us. | 6 A. Can you repeat the question? |
| 7 Q. And just to complete a point you just made, | 7 Q. Do you have any reason to believe that any of the |
| 8 Ingenico or ROAM, or however you want to think | 8 defendants have ever misused a BBPOS SDK? |
| 9 about them, continued to buy product from you | 9 A. You said defendants. You mean Ingenico? |
| 10 until 2018, right? | 10 Q. Yes. |
| 11 A. Can you repeat your question? | 11 A. I think so. |
| 12 Q. Yeah. Sure. Ingenico -- you had said that ROAM | 12 Q. How? |
| 13 Data was still buying your products in 2013 and | 13 A. Yeah. Because they -- because the product -- |
| 14 2014, but they were also buying your products in | 14 they communicate with the -- because ROAM Data |
| 15 2015, 2016, 2017 and 2018, right? | 15 sell the product to PayPal, and the PayPal using |
| 16 A. Yes. | 16 our audit, the Swiper. And then as we do the |
| 17 Q. So now that you have this worry after you've been | 17 Mastercard transaction, and the next generation |
| 18 to the booth and you've seen this product and you | 18 of the product is a Chipper, one Chipper also has |
| 19 talked with Michael Kron and you have a worry | 19 the Mastercard functions. So to make sure that |
| 20 that maybe Will Graylin was right, what did you | 20 is comparable, so one of the function is to make |
| 21 do to investigate whether there was a problem | 21 sure that the Mastercard is -- the Mastercard is |
| 22 here with your -- with respect to your trade | 22 the same. The Mastercard is the same. |
| 23 secrets? | 23 Q. I'm not understanding what you're saying the |
| 24 A. What can I do? I didn't do -- I don't do | 24 defendants did wrong. |
| 25 anything. | 25 MR. GRIFFIN: What is the question? |